
IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH
CENTRAL DIVISION

MATTHEW A. SMITH,

Plaintiff,

vs.

UNITED PARCEL SERVICE.

Defendant.

REPORT & RECOMMENDATION

Case No. 2:14-cv-00237

District Judge David Nuffer

Magistrate Judge Dustin Pead

This matter was referred to Magistrate Judge Dustin Pead by District Court Judge David Nuffer pursuant to a 28 U.S.C. §636(b)(1)(B) referral (doc. 4). On April 3, 2014, Judge Nuffer granted Plaintiff Matthew Smith's ("Mr. Smith") application to proceed in forma pauperis under 28 U.S.C. §1915 ("in forma pauperis statute").

On September 22, 2014, this court issued an Order requiring Mr. Smith to file an amended complaint, within thirty days, addressing the deficiencies of his original complaint (doc. 9). Specifically, in compliance with Rule 8 of the Federal Rules of Civil Procedure, the court directed Mr. Smith to file a legible complaint that set forth the grounds for jurisdiction, listed the parties involved, stated all relevant causes of action and provided a clear statement of the relief to which he asserted entitlement. *See* Fed. R. Civ. P. 8.

As of this date, Mr. Smith has not filed an amended complaint and the time within which to do so has expired. Accordingly, based upon the inadequacies of his original complaint and a

failure to state a claim upon which relief may be granted, as discussed further in the court's prior Memorandum Decision and Order (doc. 9), this court recommends *sua sponte* dismissal pursuant to the in forma pauperis statute. *See, Hall v. Bellmon*, 935 F.2d 1106, 1110 (10th Cir. 1991); 28 U.S.C. § 1915(e)(2)(B)(ii)(the court "shall dismiss the case at any time if the court determines that . . . the action (ii) fails to state a claim on which relief may be granted)).

RECOMMENDATION

The court hereby **RECOMMENDS** to the District Court that Mr. Smith's complaint be dismissed. Copies of the foregoing report and recommendation are being mailed to all parties who are hereby notified of their right to object. Any objection must be filed within fourteen (14) days after being served with a copy. *See* Fed. R. Civ. P. 72(b)(2). Failure to object may constitute a waiver of objections upon subsequent review.

DATED this 24th day of October, 2014.

BY THE COURT.



Dustin B. Pead
United States Magistrate Judge